BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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|---|---|---|
| In the Matter of the Accusation Against: | ) | |
| DAVID MICHAEL KOLINSKY, M.D. | ) | Case No. 800-2016-024569 |
| Physician's and Surgeon's Certificate No. A60010 | ) | |
| Respondent | ) | |

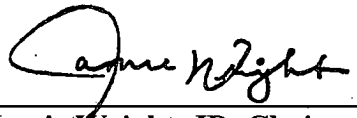
## DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 29, 2017.

IT IS SO ORDERED: August 31, 2017.

MEDICAL BOARD OF CALIFORNIA



Jamie Wright, JD, Chair
Panel A

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Attorney General of California
JANE ZACK SIMON
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*Attorneys for Complainant*

**BEFORE THE**
**MEDICAL BOARD OF CALIFORNIA**
**DEPARTMENT OF CONSUMER AFFAIRS**
**STATE OF CALIFORNIA**

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| In the Matter of the Accusation Against:<br><br>**DAVID KOLINSKY, M.D.**<br>**2511 Garden Road, Suite C125**<br>**Monterey, CA 93940**<br><br>**Physician's and Surgeon's certificate No. A60010,**<br><br>Respondent. | Case No. 800-2016-024569<br><br>**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** |

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Lawrence Mercer, Deputy Attorney General.

2. Respondent David Kolinsky, M.D., is represented in this matter by his attorney Lawrence E. Biegel, Esq., whose address is: 2801 Monterey-Salinas Hwy, Suite A, Monterey, CA 93940.

3. On or about April 12, 1996, the Medical Board issued Physician's and Surgeon's certificate Number A60010 to David Kolinsky, M.D. (Respondent). Said certificate was at all relevant times current and valid. Unless renewed, it will expire on April 30, 2018.

JURISDICTION

4. Accusation No. 800-2016-024569 was duly filed before the Medical Board of California, Department of Consumer Affairs on January 4, 2017. The First Amended Accusation (hereinafter referred to as the Accusation) was filed and served on June 29, 2017, and is currently pending against Respondent. A copy of Accusation No. 800-2016-024569 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-024569. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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## CULPABILITY

8. Respondent does not contest that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations in Accusation No. 800-2016-024569 and that he has thereby subjected his license to disciplinary action.

9. Respondent agrees that his Physician's and Surgeon's Certificate Number A60010 is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

10. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations in Accusation No. 800-2016-024569 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding and any other licensing proceeding involving Respondent in the State of California.

## CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or any participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated and Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate Number A60010 issued to Respondent David Kolinsky, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than nine (9) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision(s), Accusation(s), and any other information that the Board or its designee deems relevant. The program shall require Respondent's on-site participation for a minimum of three (3) and no more than five (5) days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the Respondent has demonstrated the ability to practice

safely and independently. Based on Respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether Respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

If Respondent fails to enroll, participate in, or successfully complete the clinical competence assessment program within the designated time period, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume the practice of medicine until enrollment or participation in the outstanding portions of the clinical competence assessment program have been completed. If the Respondent did not successfully complete the clinical competence assessment program, the Respondent shall not resume the practice of medicine until a final decision has been rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of the probationary time period.

2. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed

statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program

approved in advance by the Board or its designee that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

3. CONTROLLED SUBSTANCES - MAINTAIN RECORDS: Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all the following: 1) the name and address of patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

4. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the Board's discretion, be accepted towards the fulfillment of this condition if the course would have been approved by the

Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

5. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision will be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

6. EDUCATION COURSE: Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 30 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test

Respondent's knowledge of the course. Respondent shall provide proof of attendance for 55 hours of CME of which 30 hours were in satisfaction of this condition.

7. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

8. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

9. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

10. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

11. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such

addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice ,Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

12. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training

program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing..

14. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

15. VIOLATION OF PROBATION: Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation

shall be extended until the matter is final.

16. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

17. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Board and delivered to the Board or its designee no later than January 31 of each calendar year.

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## ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Lawrence E. Biegel. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: 7/19/17

DAVID KOLINSKY, M.D.
*Respondent*

I have read and fully discussed with Respondent David Kolinsky, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 7-19-17

LAWRENCE E. BIEGEL
*Attorney for Respondent*

## ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

Dated: July 21, 2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

LAWRENCE MERCER
Deputy Attorney General
*Attorneys for Complainant*

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EXHIBIT A

First Amended Accusation No. 800-2016-024569

XAVIER BECERRA
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*Attorneys for Complainant*



**BEFORE THE**
**MEDICAL BOARD OF CALIFORNIA**
**DEPARTMENT OF CONSUMER AFFAIRS**
**STATE OF CALIFORNIA**

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| In the Matter of the First Amended Accusation Against:<br><br>**DAVID KOLINSKY, M.D.**<br>**2511 Garden Road, Suite C125**<br>**Monterey, CA 93940**<br><br>**Physician's and Surgeon's Certificate No. A60010,**<br><br>Respondent. | Case No. 800-2016-024569<br><br>**FIRST AMENDED ACCUSATION** |

Complainant alleges:

## PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Director of the Medical Board of California (Board).

2. On or about April 12, 1996, the Medical Board issued Physician's and Surgeon's Certificate Number A60010 to David Kolinsky, M.D. (Respondent). Said certificate was at all relevant times current and valid. Unless renewed, it will expire on April 30, 2018.

## JURISDICTION

3. This First Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate.

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not

apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

6. Section 725 of the Code states:

"(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

"(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

"(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

"(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5."

7. Section 2242 of the Code states:

"(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

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"(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

"(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.

"(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

"(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

"(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

"(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

"(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code."

8. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

**FIRST CAUSE FOR DISCIPLINARY ACTION**

(Patient A.P.)

(Excessive Prescribing/Gross Negligence/Repeated Negligent Acts)

9. Respondent David Kolinsky, M.D., is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or 2242 and/or 725 in that Respondent was grossly

negligent and/or committed repeated acts of negligence and/or engaged in repeated acts of clearly excessive prescribing and/or prescribed dangerous drugs without an appropriate examination in his care and treatment of Patient A.P.[1] The circumstances are as follows:

A. Patient A.P. came under Respondent's care and treatment on September 15, 2005. At the time of her first visit, the patient reported taking Norco[2], 3-6 tablets/day, for pain. Prior medical records were not obtained. A brief history was recorded, stating that the patient has almost constant low back pain since stopping all her high school physical activities, which included cheerleading and track. It was also noted that she had three motor vehicle accidents, which slightly exacerbated her pain each time. A social history was obtained which included tobacco abuse, occasional marijuana and no alcohol use in the last eight months. It was noted that the patient's grandfather was an alcoholic. Respondent's documented physical examination consists of 2 X's marked on a diagram of the back, evidently to indicate areas of pain. Respondent formulated a diagnosis of myofascial pain syndrome-mid and low back. No vital signs were recorded. Respondent's plan was to maintain the patient on Norco, 10/325 mg., one tablet 2-4 times/day.

B. Patient A.P. returned to Respondent for six additional visits in 2005. The patient's pain medication was advanced to Percocet[3] 10/325 mg., up to five tablets/day. The patient was also receiving prescriptions for Soma[4] with a dosage of three tablets/day.

C. After a hiatus in treatment, Patient A.P. returned to Respondent's care on March 28, 2011, at which time she reported being prescribed methadone[5], four tabs/day. Prior medical records were not obtained. Respondent's history for the patient included pain in the center of her back for 10 years, with occasional shoulder pain, tension headaches and rare aching in the arms

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[1] Patient names are abbreviated to protect privacy rights.

[2] Norco is a trade name for hydrocodone bitartrate and acetaminophen, a controlled substance and an opiate medication with the potential for habituation and use.

[3] Percocet is a trade name for oxycodone and acetaminophen, a narcotic analgesic with multiple actions similar to those of morphine with a high potential for dependence and abuse.

[4] Soma (carisoprodol) is a muscle relaxant and a controlled substance, which can have dangerous additive side effects when taken with opioids.

[5] Methadone hydrochloride is a controlled substance and an opioid indicated for the treatment of pain severe enough to require around-the-clock long-term opioid management and for which alternative treatments have failed. Methadone exposes users to the risks of opioid addiction, misuse and abuse, which can lead to overdose and death.

and legs. Via social history, the patient denied any substance abuse, arrests, hospitalizations or rehabilitation group meetings. Respondent repeated his diagnosis of myofascial pain syndrome of the right lower back. He prescribed methadone, 10 mg, 1 to 2 tablets TID, #85.

D. The patient returned on April 11, 2011, at which time she reported taking more than six methadone tablets per day without relief. At that time Respondent added oxycodone[6], 30 mg., 1-3 tablets TID, #90, for additional pain control. No informed consent discussion of the risks of the medications was documented.

E. On May 6, 2011, the patient returned and at that time reported that she was taking 10 methadone tablets, 10 mg, daily as well as 3 to 4 tablets of oxycodone. Respondent prescribed a two week supply, which included: oxycodone, 30 mg, QID, #60, methadone, 10 mg, 1-3 tablets TID, #150. The patient was instructed to return in two weeks for injections, but she canceled her appointment. Without being seen, she was given a four-week prescription of methadone and oxycodone in the same amounts as previously prescribed. On June 6, 2011, the patient requested an early refill of oxycodone and was issued a prescription for 40 tablets. The patient was also prescribed Valium.[7] Respondent's note does not reflect an appropriate evaluation of the patient's anxiety, for which Valium was prescribed. She returned on June 17, 2011, at which time she reported taking oxycodone, 4/day, methadone 9/day and Valium 4/day. The note for the visit is sparse, containing very little information. The patient was issued prescriptions for a 60-day supply of methadone, oxycodone and valium. The patient had trigger point injections on August 5, 2011, but otherwise was maintained on her regimen of long and short acting opioids and Valium. The patient returned for one final visit on September 23, 2011, when she noted brief (three weeks) benefit from trigger point injections. Again the note is sparse in detail. As in all of Respondent's chart notes for this patient, there are no vital signs, examinations consist of a basic diagram with X's to indicate painful areas but no additional information (i.e., tenderness, range of

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[6] Oxycodone is a narcotic analgesic with multiple actions similar to those of morphine. Oxycodone is a controlled substance and is available in combination with other drugs or alone. It can produce drug dependence and, therefore has the potential for being abused.

[7] Valium is a trade name for diazepam, a benzodiazepine and controlled substance with the potential for abuse. Valium has the potential for dangerous side effects when taken with opioid medications.

motion, etc.). The patient was issued a prescription for a six week supply of methadone, oxycodone, and Valium in the range of dosage that she had been taking. Patient A.P.'s sister died of an overdose of opioid medications a short time after her last appointment, at which time Patient A.P. entered a drug rehabilitation program and discontinued treatment with Respondent.

10. Respondent is guilty of unprofessional conduct and Respondent's certificate is subject to disciplinary action based on his gross negligence, repeated negligent acts and/or excessive prescribing as set forth above and including, but not limited to, the following:

A. Respondent inappropriately and excessively prescribed and dispensed opioids and benzodiazepines to Patient A.P.;

B. Respondent failed to perform and/or failed to document the basic elements of patient care including but not limited to: a complete history, physical examination with findings, vital signs, informed consent, pain scores, treatment goals and discussion of alternative treatments;

C. Respondent failed to recognize signs of drug seeking behaviors, such as early refills, and/or failed to respond appropriately;

D. Respondent prescribed methadone in very high doses without EKG monitoring.

**SECOND CAUSE FOR DISCIPLINARY ACTION**

(Patient A.M.)

(Excessive Prescribing/Gross Negligence/Repeated Negligent Acts)

11. Respondent David Kolinsky, M.D., is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or 2242 and/or 725 in that Respondent was grossly negligent and/or committed repeated acts of negligence and/or engaged in repeated acts of clearly excessive prescribing and/or prescribed dangerous drugs without an appropriate examination in his care and treatment of Patient A.M. The circumstances are as follows:

A. On and before September 15, 2011, Patient A.M., a 59-year-old female, was under Respondent's care and treatment for pain management related to a diagnosis of myofascial pain syndrome. The patient had a history significant for chronic obstructive pulmonary disease, pulmonary fibrosis and a history of cigarette smoking. On the date of the September 15, 2011 visit, no vital signs were recorded and no true physical examination was documented or

performed. Only diagrams in the chart with marked X's reflect the patient's pain complaints and trigger point injection locations. The patient was prescribed Soma, 350 mg, HS, and Norco, 10 mg, 1 tablet Q 4-6 hours.[8]

B. On September 23, 2011, Respondent documented that the patient was taking more Norco then prescribed by him. The patient was taking 19 tablets of Norco per day, as well as 4 tablets of Soma per day. There is no documented discussion with the patient regarding the risks of exceeding the prescribed dosage of narcotics, nor did Respondent institute urine drug screening testing. Respondent started the patient on trazodone, an antidepressant, and continued the patient on her opioid medication which, other than a short trial of oxycodone, consisted of Norco, 10 mg, #240, in combination with Soma and Valium.

C. After May 21, 2012, the patient was not seen by Respondent for a five-month period, apparently due to a surgical procedure that she underwent. However, Respondent continued to prescribe to her during this period so that she obtained an average of eight Norco per day, over three tablets of Soma per day, and three tablets of Valium, 5 mg, per day -- all without any examination by him.

D. On and after October 31, 2012, Respondent resumed seeing the patient. His chart notes are sparse, containing little information. Vital signs are routinely omitted and physical examinations generally consist of a diagram with X's to indicate complaints.

E. In December, 2012, Respondent was in contact with the patient, first by telephone and then in a face-to-face visit. The patient reported that she had finished all of her Norco early. Respondent's plan was to change the patient's medication to hydromorphone[9] and he prescribed hydromorphone, 4 mg, #120. However, only eight days later, Respondent also gave the patient a prescription for an additional 240 tablets of Norco. On January 29, 2013, Respondent prescribed an additional 20 tablets of Norco, 10 mg. No rationale for this combination of opioid medications is documented.

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[8] The combination of Soma and Norco, sometimes referred to as a Las Vegas Cocktail, has an effect which mimics heroin and is commonly abused for that reason.

[9] Hydromorphone hydrochloride, which is marketed under the trade name Dilaudid, is a potent opioid agonist and controlled substance.

F. On February 6, 2013, patient A.M. died at the age of 61 years. The cause of death was found to be acute mixed drug intoxication.

12. Respondent is guilty of unprofessional conduct and Respondent's certificate is subject to disciplinary action based on his gross negligence, repeated negligent acts and/or excessive prescribing as set forth above and including, but not limited to, the following:

A. Respondent inappropriately and excessively prescribed and dispensed opioids and benzodiazepines to Patient A.M.;

B. Respondent failed to perform and/or failed to document the basic elements of patient care including but not limited to: a complete history, physical examination with findings, vital signs, informed consent, pain scores, treatment goals and discussion of alternative treatments;

C. Respondent failed to recognize signs of drug seeking behaviors, such as early refills, and/or failed to respond appropriately to the patient's excessive use with urine drug screening tests, reference to CURES reports or termination of care;

D. Respondent failed to appropriately monitor a patient with chronic obstructive pulmonary disease and pulmonary fibrosis while taking high doses of opioid medications;

E. Respondent excessively prescribed medications containing acetaminophen.

**THIRD CAUSE FOR DISCIPLINARY ACTION**

(Patient C.B.)

(Excessive Prescribing/Gross Negligence/Repeated Negligent Acts)

13. Respondent David Kolinsky, M.D., is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or 2242 and/or 725 in that Respondent was grossly negligent and/or committed repeated acts of negligence and/or engaged in repeated acts of clearly excessive prescribing and/or prescribed dangerous drugs without an appropriate examination in his care and treatment of Patient C.B. The circumstances are as follows:

A. On and before January 13, 2011, patient C.B., a 39-year-old female, was under Respondent's care and treatment for pain management. In the note for that visit, no vital signs are recorded, no physical examination is documented. Respondent's assessment of the patient is stated as myofascial pain syndrome-low back. His plan is to prescribe MS Contin, 30 mg, TID,

#90 and schedule a follow-up in four weeks. The patient was also receiving prescriptions for hydrocodone, 7.5 mg/750 mg, #120. The CURES report for this patient shows that she was also taking a Vicodin elixir prescribed by another physician.[10] Although the patient requested early refill of her hydrocodone, this indicator of medication misuse was not remarked upon by Respondent. At her next visit on February 23, 2011, she reported that she was having spasms 3-5 times per day without Soma. Respondent switched the patient's Vicodin to Norco, 10/325 mg, but at the same time prescribed sufficient opioid medication as to enable her to take as many as 17 tablets/day of Norco -- a dosage which is excessive.

B. In or about March, 2011, the patient apparently relocated to another city. During this time she continued to receive prescriptions for controlled substances from Respondent, without any physical examination or documented communication. She was also obtaining prescriptions for controlled substances from another physician.

C. On January 14, 2013, approximately 22 months after her last visit, Patient C.B. returned to Respondent's care. At that time the patient reported having undergone a gastric bypass, however, neither her weight nor her vital signs are recorded. The chart note indicates that the patient was taking Norco, three tablets/day and soma, three tablets/day.[11] Over the following months her dosage was increased, so that in May, 2013, Patient C.B. was taking six tablets of Norco and four tablets of Soma each day. On May 17, 2013, Respondent added MS Contin[12], 30 mg, TID, #90, to the patient's medication regimen.

D. As of July 12, 2013, Patient C.B. was taking MS Contin, 4-5 tablets/day, Norco, 6 tablets/day and Soma, 4-5 tablets/day, which were prescribed by Respondent. In addition, she

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[10] CURES (Controlled Substance Utilization Review and Evaluation System) is a database of Schedule II, III and IV controlled substance prescriptions dispensed in California serving the public health, regulatory oversight agencies, and law enforcement. In his interview with the Board's investigator, Respondent acknowledged that he did not review CURES reports during the period that Patient C.B. was under his care.

[11] See fn. 8, *supra*.

[12] Morphine sulfate is a controlled substance and a potent opioid intended for the management of pain severe enough to require daily, around-the-clock, long-term opioid management and for which alternative treatment options are inadequate. Morphine sulfate tablets expose patients and other users to the risks of opioid addiction, abuse, and misuse, which can lead to overdose and death.

was taking clonazepam, 1 mg, #45, that she was receiving from another physician. Respondent was not utilizing the CURES reporting system and failed to discover that the patient was utilizing multiple providers to obtain additional drugs.

E. On July 15, 2013, Patient C.B. died after an overdose of her prescribed medications. The cause of death was acute morphine intoxication.

14. Respondent is guilty of unprofessional conduct and Respondent's certificate is subject to disciplinary action based on his gross negligence, repeated negligent acts and/or excessive prescribing as set forth above and including, but not limited to, the following:

A. Respondent inappropriately and excessively prescribed and dispensed opioids and other dangerous drugs to Patient C.B.;

B. Respondent failed to perform and/or failed to document the basic elements of patient care including but not limited to: a complete history, physical examination with findings, vital signs, informed consent, pain scores, treatment goals and discussion of alternative treatments;

C. Respondent prescribed controlled substances without a face-to-face visit, documented physician/patient communication or appropriate examination;

D. Respondent failed to recognize signs of drug seeking behaviors, such as early refills, utilizing multiple pharmacies and obtaining medications from other physicians, and/or failed to respond appropriately to the patient's excessive use with urine drug screening tests, reference to CURES reports or termination of care.

**FOURTH CAUSE FOR DISCIPLINARY ACTION**

(Patient C.H.)

(Excessive Prescribing/Gross Negligence/Repeated Negligent Acts)

15. Respondent David Kolinsky, M.D., is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or 2242 and/or 725 in that Respondent was grossly negligent and/or committed repeated acts of negligence and/or engaged in repeated acts of clearly excessive prescribing and/or prescribed dangerous drugs without an appropriate examination in his care and treatment of Patient C.H. The circumstances are as follows:

A. In and before August 8, 2012, Patient C.H., a 28-year-old female, was under Respondent's care for pain management. The record for the August 8 visit indicates that the patient was on high doses of opioid medications, including: fentanyl[13], 75 µg, two patches Q 72 hours, #20, oxycodone, 30 mg, 2-3 tablets QID, #140, methadone, 10 mg, 7 tablets QID, #400, resulting in an approximate daily morphine equivalent dosage (MED) far exceeding 1 gram/day. Despite the seriousness of her condition, as indicated by the extreme high dose opioid therapy, Respondent's note is cursory, lacks vital signs or a documented physical examination. A diagram with X's indicates locations of trigger point injections. Respondent's diagnosis for this patient, as with the other patients charged herein, is myofascial pain syndrome, with pain to the right shoulder described as radiating into the right arm and right paraspinal pain resulting in headaches.

B. Patient C.H. continued under Respondent's care through January 2014, during which time her opioid dosage was tapered somewhat, but she was still being maintained on high dose opioid therapy. Patient C.H. was also obtaining prescriptions for controlled substances from other physicians. Despite repeated patient requests for additional medication and other drug seeking behaviors, Respondent failed to utilize the CURES reporting system to ascertain whether the patient was exceeding the dosage he prescribed. While the patient was seen frequently, records of the visits uniformly lack vital signs, history and other pertinent information relating to the patient's condition.

C. On January 7, 2014, Patient C.H. had her last office visit with Respondent. The patient was then taking oxycodone, 30 mg, 6/day. Respondent gave the patient a prescription for oxycodone, 30 mg, two tablets TID, #180. Albeit there is no record of it in his chart, he also issued a prescription for methadone, 10 mg, #420, which was found to be in the patient's possession after her death by overdose on January 25, 2014.

16. Respondent is guilty of unprofessional conduct and Respondent's certificate is subject to disciplinary action based on his gross negligence, repeated negligent acts and/or excessive prescribing as set forth above and including, but not limited to, the following:

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[13] Fentanyl is a potent synthetic opioid analgesic. It is a controlled substance with a high potential for habituation and abuse.

A. Respondent inappropriately and excessively prescribed and dispensed opioids and other dangerous drugs to Patient C.H.;

B. Respondent failed to perform and/or failed to document the basic elements of patient care including but not limited to: a complete history, physical examination with findings, vital signs, informed consent, pain scores, treatment goals and discussion of alternative treatments;

C. Respondent failed to recognize signs that the patient was exceeding her prescribed dosage of opioid medications and failed to utilize the CURES system to detect her drug abuse;

D. Respondent prescribed methadone in very high doses without EKG monitoring.

**FIFTH CAUSE FOR DISCIPLINARY ACTION**

(Patient B.S.)

(Excessive Prescribing/Gross Negligence/Repeated Negligent Acts)

17. Respondent David Kolinsky, M.D., is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or 2242 and/or 725 in that Respondent was grossly negligent and/or committed repeated acts of negligence and/or engaged in repeated acts of clearly excessive prescribing and/or prescribed dangerous drugs without an appropriate examination in his care and treatment of Patient B.S. The circumstances are as follows:

A. Beginning on July 2, 2012, Patient B.S. a 35-year-old male with a history of an industrial accident, came under Respondent's care. B.S. had been on a regimen of NSAID medications, a muscle relaxer and Tramadol[14] for chronic neck, shoulder and back pain. Respondent changed his medications to include Norco, 10/325 mg, #180, and Soma, 350 mg., #90. No vital signs were recorded at the first or subsequent visits, the history obtained was sparse and the physical examination generally consisted of a diagram with painful areas shaded in and/or trigger point injection sites. No explanation for changing the patient's conservative management to opioid therapy was documented, nor was the justification for the dosage explained. As in other cases, Respondent's diagnosis was myofascial pain syndrome. Respondent also prescribed Xanax for "anxiety." After beginning treatment, B.S. began to exhibit "red flag" drug seeking behaviors,

[14] Tramadol, which is marketed under the trade name Ultram, is a narcotic-like pain medication and a controlled substance.

including "lost" medications, obtaining controlled substances from multiple physicians and exceeding the prescribed dosage.

B. On November 24, 2012, Patient B.S. was taken to a local hospital for a suspected drug overdose. The ER physician charted: "Patient is narcotic and benzodiazepine addicted and drug seeking with manipulative behavior to obtain these medications. Has overdosed on sertraline and Xanax, does not eat regularly, urinates on self and does not change clothes, is both a danger to himself and gravely disabled. I placed him on 5150 and he will be medically cleared by psychiatric evaluation." Per the hospital chart notes, the ER physician also contacted Respondent and advised him of the patient's visit and the need for emergency psychiatric services. A gap in treatment followed, albeit the patient appears to have obtained at least one prescription for benzodiazepines without a face-to-face visit. The patient had two more overdose-related hospitalizations in January and February 2015.

C. On April 26, 2016, Patient B.S. returned to Respondent's care. An interim history includes treatment by other physicians, but no mention of the patient's narcotic and benzodiazepine abuse or dependence. Without a documented rationale, Respondent resumed prescribing Norco, 10/325 mg, #120. During this period, the patient was also obtaining prescriptions for controlled substances from other physicians.

D. On January 13, 2017, Respondent's chart includes, for the first time, a CURES report showing all of Patient B.S.' prescriptions. Respondent had the patient sign a medication agreement, also for the first time, on that date. On February 17, 2017, Respondent charted that the patient "took 10 Norco/day ~ 2 weeks ago. Was given Ultram/Clonidine at ER and continued by me. Patient told no more Norco due to carelessness with script." Respondent discharged the patient from his practice at that time.

18. Respondent is guilty of unprofessional conduct and Respondent's certificate is subject to disciplinary action based on his gross negligence, repeated negligent acts and/or excessive prescribing as set forth above and including, but not limited to, the following:

A. Respondent inappropriately and excessively prescribed and dispensed opioids and other dangerous drugs to Patient B.S.;

B. Respondent failed to perform and/or failed to document the basic elements of patient care including but not limited to: a complete history, physical examination with findings, vital signs, informed consent, pain scores, treatment goals and discussion of alternative treatments;

C. Respondent failed to recognize signs that the patient was exceeding his prescribed dosage of opioid medications and failed to utilize the CURES system to detect his drug abuse.

**SIXTH CAUSE FOR DISCIPLINARY ACTION**

(Patient S.L.)

(Excessive Prescribing/Gross Negligence/Repeated Negligent Acts)

19. Respondent David Kolinsky, M.D., is subject to disciplinary action under section 2234 and/or 2234(b) and/or 2234(c) and/or 2242 and/or 725 in that Respondent was grossly negligent and/or committed repeated acts of negligence and/or engaged in repeated acts of clearly excessive prescribing and/or prescribed dangerous drugs without an appropriate examination in his care and treatment of Patient S.L. The circumstances are as follows:

A. On November 17, 2011, Patient S.L., a 32-year-old female came under Respondent's care for low back pain with sciatic pain radiating into the left leg. No prior medical records or films were obtained and the etiology of the patient's low back pain is not documented. No vital signs are recorded. A physical examination, consisting of a diagram of trigger point injection sites is the extent of the workup. The patient gave a history of pain medication use that included Norco, oxycodone, oxycontin and Tramadol, although the dosages for these medications are not documented. Respondent did not obtain a CURES report, which would have revealed that the patient was seeing multiple physicians and obtaining prescriptions for hydrocodone/APAP, 10/325 mg. Without a documented rationale, Respondent diagnosed Patient S.L. with myofascial pain syndrome, left low back, and he began S.L. on a treatment plan that included trigger point injections and long-acting (methadone) and short-acting (Norco) opioid medications.

B. Respondent continued to treat Patient S.L. through July 7, 2014. During this period, she frequently exceeded the recommended maximum dosage for Norco and methadone. While he noted this excessive use, Respondent maintained the patient on her extremely high dose opioid therapy for several years before beginning to taper her medications in early 2014. For extended

periods of time, Patient S.L. was on a potentially lethal daily dose of opioids ranging as high as 2,000 mg/day morphine equivalent dosing (MED) in January 2012, and not decreasing below 1,000 mg/day MED until approximately August, 2014. At no time did Dr. Kolinsky obtain the patient's prior medical records, obtain X-rays/imaging, obtain urine drug screening, refer the patient to pain management or physical therapy or comply with the elements of sound medical practice required by the standard of care. Albeit the patient was prescribed methadone, EKG studies were not ordered.

20. Respondent is guilty of unprofessional conduct and Respondent's certificate is subject to disciplinary action based on his gross negligence, repeated negligent acts and/or excessive prescribing as set forth above and including, but not limited to, the following:

A. Respondent inappropriately and excessively prescribed and dispensed opioids and other dangerous drugs to Patient S.L.;

B. Respondent failed to perform and/or failed to document the basic elements of patient care including but not limited to: a complete history, physical examination with findings, vital signs, informed consent, pain scores, treatment goals and discussion of alternative treatments;

C. Respondent failed to recognize signs that the patient was exceeding her prescribed dosage of opioid medications and failed to utilize the CURES system to detect her drug abuse;

D. Respondent prescribed methadone in very high doses without EKG monitoring.

**SEVENTH CAUSE FOR DISCIPLINARY ACTION**

(Inadequate and Inaccurate Medical Records)

(All Patients)

21. Complainant incorporates the allegations of the First through the Sixth Causes for Disciplinary Action as though fully set out here. Respondent is guilty of unprofessional conduct and Respondent's certificate is subject to disciplinary action for violation of Section 2266 of the Code for failure to keep adequate and accurate medical records.

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## PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A60010, issued to Respondent David Kolinsky, M.D.;

2. Revoking, suspending or denying approval of Respondent David Kolinsky, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering Respondent David Kolinsky, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: June 29, 2017

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
*Complainant*

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